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11 Lori Labelle-Wright

10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA

12 Lori Labelle-Wright,

Case No:

13 Plaintiff,

14
15 COMPLAINT FOR BENEFITS UNDER
16 AN EMPLOYEE WELFARE BENEFIT
17 PLAN

18 vs.
19
20 LIFE INSURANCE COMPANY OF
21 NORTH AMERICA,

Defendant.

21 Plaintiff alleges as follows:

22 1. This Court's jurisdiction is invoked pursuant to 28 U.S.C. §§ 1331, 1337
23 and 29 U.S.C. § 1132(a), (e), (f), and (g), of the Employee Retirement Income Security
24 Act of 1974, 29 U.S.C. § 1101, *et seq.* (hereafter "ERISA") as it involves a claim by
25 Plaintiff for Disability benefits under an employee benefit plan regulated and governed
26 under ERISA. Jurisdiction is predicated under these code sections as well as 28 U.S.C.
§ 1331 as this action involves a federal question.

27 2. The ERISA statute at 29 U.S.C. § 1133, in accordance with Regulations of
28 the Secretary of Labor, provides a mechanism for internal appeal of benefit denials.

1 Those avenues of appeal have been exhausted.

2 3. Plaintiff is informed and believes and thereon alleges that the Unity Point
3 Health Group Long Term Disability Plan ("Plan") is an employee welfare benefit plan
4 established and maintained by Unity Point Health to provide its employees and those of
5 its subsidiaries and affiliates, including Plaintiff, LORI LABELLE-WRIGHT ("Plaintiff"
6 and/or Ms. LABELLE-WRIGHT"), with income protection in the event of a disability and
7 is the Plan Administrator.

8 4. Plaintiff alleges upon information and belief that Defendant, LIFE
9 INSURANCE COMPANY OF NORTH AMERICA ("LINA"), is, and at all relevant times
10 was, a corporation duly organized and existing under and by virtue of the laws of the
11 State of Pennsylvania, authorized to transact and transacting the business of insurance
12 in this state, and, the insurer and Claims Administrator for the Plan.

13 5. Plaintiff further alleges that venue is proper in this district pursuant to 29
14 U.S.C. § 1132(e)(2) in that defendant LINA, who fully insured the policy and who is
15 ultimately liable if Plaintiff is found disabled, may be found in this district. Since on or
16 about November 1, 1956, LINA has been registered as a corporation with the state of
17 California, has extensive contacts within the state, employs California residents, conducts
18 ongoing business within the state and therefore, may be found within the state.

19 6. At all relevant times Plaintiff was a resident and citizen of the United
20 States, an employee of Unity Point Health, its successors, affiliates and/or subsidiaries,
21 and a participant in the Plan.

22 7. Based upon information and belief, Plaintiff alleges that at all relevant
23 times herein Plaintiff was covered under group disability policy number LK-980169 that
24 had been issued by Defendant LINA to Unity Point Health to insure its Plan, and the
25 eligible participants and beneficiaries of the Plan, including Plaintiff.

26 8. The subject Policy promised to pay Plaintiff monthly long term disability
27 benefits for a specified period of time should she become disabled. Therefore, LINA
28 both funds and decides whether claimants will receive benefits under the Plan and as



1 such suffers from a structural conflict which requires additional skepticism.

2 9. Based upon information and belief, Plaintiff alleges that, according to the
3 terms of the Plan, if Plaintiff became disabled, LINA promised to pay long term disability
4 benefits to Plaintiff as follows:

- 5 • Elimination Period: The later of the expiration of any Employer sponsored
6 short term disability benefits or salary continuation program or 180 days.
- 7 • Gross Disability Benefit:
 - 8 ◦ Core Benefit: 50%
 - 9 ◦ Optional Benefit: 60%
- 10 • Maximum Disability Benefit: \$10,000 per month.
- 11 • Minimum Disability Benefit: The greater of \$100 or 10% of an Employee's
12 Monthly Benefit prior to any reductions or Other Income Benefits.
- 13 • Maximum Benefit Period: The Employee's 65th birthday or the date the
14 42nd Monthly Benefit is payable, if later.
- 15 • Definition of Disability/Disabled:
 - 16 ◦ The Employee Disabled if, solely because of Injury or Sickness, he
17 or she is:
 - 18 ▪ 1. unable to perform the material duties of his or her Regular
19 Occupation; and
 - 20 ▪ 2. unable to earn 80% or more of his or her Indexed
21 Earnings from working in his or her Regular Occupation.

22 10. Prior to her disability under the terms of the Plan, on or about January 28,
23 2014, Plaintiff, who had been employed with Unity Point Health, was working as an
24 Emergency Department Coordinator.

25 11. However, Plaintiff became disabled under the terms of the Plan and timely
26 submitted a claim to LINA for payment of disability benefits.

27 12. LINA initially approved and paid Plaintiff's LTD benefits.

28 13. However, on or about July 23, 2015, LINA unreasonably and unlawfully



1 denied her long term disability claim. And, on or about September 10, 2015 and
2 January 8, 2016, LINA unreasonably and unlawfully upheld its denial of the disability
3 claim.

4 14. According to LINA's denial letters:

5 • **July 23, 2015:** "After completing our review of your claim, we are
6 unable to continue paying benefits beyond the date of this
7 letter... You have the right to bring a legal action for benefits under
8 the Employee Retirement Income Security Act of 1974 (ERISA)
9 section 502(a) following an adverse benefit determination on
10 appeal."

11 • **January 8, 2016:** "After completing our review of your claim, we are
12 unable to continue paying benefits beyond July 23, 2015... At this
13 point in time you have exhausted all administrative levels of appeal
14 and no further appeals will be considered... Please note that you
15 have the right to bring a legal action for benefits under the
16 Employee Retirement Income Security Act of 1974 (ERISA) section
17 502(a)..."

18 15. In so doing, LINA unreasonably and unlawfully failed to timely identify the
19 medical personnel who reviewed Plaintiff's file; relied upon the opinions of physicians
20 who were financially biased and/or not qualified to refute the findings of Plaintiff's board
21 certified physicians; relied strictly upon physical requirements of occupations instead of
22 taking into consideration the non-exertional requirements of Plaintiff's own, or any,
23 occupation; and misrepresented the terms of the Policy.

24 16. Additionally, LINA knew, or should have known, that the documentation
25 submitted to and/or obtained by LINA clearly substantiated Plaintiff's disability,
26 including, but not limited to, the following:

27 • 04/28/2014 MRI Lumbar Spine:
28 ○ At the L4-L5 level there is disc space narrowing consistent with



1 degenerative disc disease. Postoperative changes are evident
2 within the right lamina. There is enhancing soft tissue density
3 associated with the right L5 nerve root consistent with epidural
4 fibrosis.

5 • 05/22/2014 Lumbar epidural steroid injection fluoroscopy
6 • 06/23/2014 Physical Abilities Assessment from Plaintiff's Treating
7 Physician:

8 Sitting: Occasionally
9 Standing: Occasionally
10 Walking: Occasionally
11 Reaching at desk level: Occasionally
12 Reaching below waist: Rare/None
13 Firm Grip: Occasionally
14 Has radicular and muscular back pain limiting her activities, unable
15 to sit/stand/walk > 30 minutes at a time at best.

16 • 02/04/2015 Physical Abilities Assessment from Plaintiff's Treating
17 Physician:

18 Sitting: Occasionally
19 Standing: Occasionally
20 Walking: Occasionally
21 Reaching at desk level: Occasionally
22 Reaching below waist: Occasionally
23 Pt has significant lumbar radiculopathy and chronic low back pain
24 that makes staying in any position for >15 min difficult to work.

25 • 06/17/2015 Physical Abilities Assessment from Plaintiff's Treating
26 Physician:

27 Sitting: Occasionally (Supported by clinical findings)
28 Standing: Occasionally (Supported by clinical findings)



- 1 ○ Walking: Occasionally (Supported by clinical findings)
- 2 ○ Reaching at desk level: Occasionally (Supported by clinical
- 3 findings)
- 4 ○ Reaching below waist: Occasionally (Supported by clinical findings)
- 5 ○ Simple Grasp: Occasionally (Supported by clinical findings)
- 6 ○ Firm Grasp: Occasionally (Supported by clinical findings)
- 7 ○ Pushing 5 pounds: Occasionally
- 8 ○ Pulling 5 pounds: Occasionally
- 9 ○ She has chronic lumbar radiculopathy with pain shooting down to
- 10 ankles at times. Unable to sit/stand/walk for greater than 5 min at a
- 11 time without position changes.

12 • 08/05/2015 Letter from Plaintiff's Treating Physician:

- 13 ○ I am writing on behalf of Lori Labellewright (sic). She is a patient of
- 14 mine that has the significant history for chronic lumbar radicular
- 15 pain. This is due to a disk herniation status post a failed back
- 16 surgery.
- 17 ○ At my last visit, I tried to document the significant trouble she has
- 18 with her back.
- 19 ○ Lori is significantly limited by her back; her pain radiates down her
- 20 bilateral legs with minimal movement. She is unable to lift greater
- 21 than 5 pounds. We did have her carry 5 pound weight to the
- 22 checkout and she was having difficulty grasping the weights with
- 23 her hands, she barely was able to walk out of the exam.
- 24 ○ She had positive bilateral straight leg raise.
- 25 ○ Again, with her back, she is unable to crouch, bend, stoop or sit for
- 26 prolonged periods.

27 17. To date, even though Plaintiff has been disabled, LINA has not paid
28 Plaintiff any disability benefits under the Policy since on or about July 23, 2015. The



1 unlawful nature of LINA's denial decision is evidenced by, but not limited to, the
2 following:

- LINA engaged in procedural violations of its statutory obligations under ERISA, including, but not limited to, failing to promptly identify the medical consultants who reviewed her file; failing to timely advise Plaintiff of what specific documentation it needed from her to perfect her claim; and, failing to provide a complete copy of all documents, records, and other information relevant to her claim despite a request by Plaintiff in violation of 29 C.F.R. Section 2560.530-1(h)(2)(iii);
- LINA ignored the obvious, combed the record and took selective evidence out of context as a pretext to deny Plaintiff's claim; and,
- LINA ignored the opinions of Plaintiff's board certified treating physicians and/or misrepresented the opinions of Plaintiff's treating physicians. Deference should be given to the treating physician's opinions as there are no specific, legitimate reasons for rejecting the treating physicians' opinions which are based on substantial evidence in the claim file. Further, LINA's highly conflicted physician's opinion does not serve as substantial evidence, as it is not supported by evidence in the claim file, was not issued by a physician with the same level of medical expertise as the board certified treating physicians, nor is it consistent with the overall evidence in the claim file.

22 18. For all the reasons set forth above, the decision to deny disability
23 insurance benefits was wrongful, unreasonable, irrational, sorely contrary to the
24 evidence, contrary to the terms of the Plan and contrary to law. Further, LINA's denial
25 decision and actions heighten the level of skepticism with which a court views a
26 conflicted administrator's decision under *Abatie v. Alta Health & Life Insurance Co.*, 458
27 F.3d 955 (9th Cir. 2006) and *Metropolitan Life Insurance Co. v. Glenn*, 128 S. Ct. 2342
28 (2008).

1 19. Additionally, ERISA imposes higher-than-marketplace quality standards
2 on insurers. It sets forth a special standard of care upon a plan administrator, namely,
3 that the administrator “discharge [its] duties” in respect to discretionary claims
4 processing “solely in the interests of the participants and beneficiaries” of the plan, §
5 1104(a)(1); it simultaneously underscores the particular importance of accurate claims
6 processing by insisting that administrators “provide a ‘full and fair review’ of claim
7 denials,” *Firestone*, 489 U.S., at 113 (quoting § 1133(2)); and it supplements
8 marketplace and regulatory controls with judicial review of individual claim denials, see
9 § 1132(a)(1)(B).

10 20. As a direct and proximate result of LINA’s failure to provide Plaintiff with
11 disability benefits, Plaintiff has been deprived of said disability benefits beginning on or
12 about July 24, 2015 to the present date.

13 21. As a further direct and proximate result of the denial of benefits, Plaintiff
14 has incurred attorney fees to pursue this action, and is entitled to have such fees paid
15 by defendants pursuant to 29 U.S.C. § 1132(g)(1), ERISA § 502(g)(1).

16 22. A controversy now exists between the parties as to whether Plaintiff is
17 disabled as defined in the Plan. Plaintiff seeks the declaration of this Court that she
18 meets the Plan definition of disability and consequently she is entitled to all benefits
19 from the Plan to which she might be entitled while receiving disability benefits, with
20 reimbursement of all expenses and premiums paid for such benefits from the
21 termination of benefits to the present. In the alternative, Plaintiff seeks a remand for a
22 determination of Plaintiff’s claim consistent with the terms of the Plan.

23 WHEREFORE, Plaintiff prays for relief against Defendants as follows:

24 1. An award of benefits in the amount not paid Plaintiff beginning on or about
25 July 24, 2015, together with interest at the legal rate on each monthly payment from the
26 date it became due until the date it is paid; plus all other benefits from the Plan to which
27 she might be entitled while receiving disability benefits, with reimbursement of all
28 expenses and premiums paid for such benefits or, in the alternative, a remand for a

1 determination of Plaintiff's claim consistent with the terms of the Plan;
2 2. An order determining Plaintiff is entitled to future disability
3 payments/benefits so long as she remains disabled as defined in the Plan;
4 3. For reasonable attorney fees incurred in this action; and,
5 4. For such other and further relief as the Court deems just and proper.

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8 Dated: January 17, 2017

DarrasLaw



10 PHILLIP S. BATHER
11 Attorneys for Plaintiff
12 LORI LABELLE-WRIGHT

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